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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/645,635	08/22/2003	David N. Rucker	A-8281.C	8019
7590	03/03/2004			
HOFFMAN, WASSON & GITLER, P.C. Suite 522 2361 Jefferson Davis Highway Arlington, VA 22202			EXAMINER VALENTI, ANDREA M	
			ART UNIT 3643	PAPER NUMBER

DATE MAILED: 03/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/645,635	<b>Applicant(s)</b> RUCKER ET AL. <span style="float: right;">C/O</span>	
	<b>Examiner</b> Andrea M. Valenti	<b>Art Unit</b> 3643	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 August 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 6-7, 10, 12, 18, and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,299,529 to Ramirez.

Regarding Claims 1, 6 and 12, Ramirez teaches a device and method for dispensing pet treats at a of selected times during a predetermined period, plurality comprising: a container (#14) for holding a plurality of pet treats; a time controlled dispenser for dispensing a plurality of pet treats, said time controlled dispenser including a microprocessor (#154) and an input device (#162, 160, 161), said input device inputting the predetermined period into said microprocessor, said microprocessor including a program to automatically calculate a schedule for dispensing the pet treats at times which are randomized (Col. 4 line 15 and Col. 6 line 46-47). Since Ramirez teaches that the device can be programmed for any time dispensing frequency it inherently includes the predetermined period is subdivided into a number of equal consecutive intervals, said number of equal consecutive intervals equivalent to the number of planned dispensations, the majority of said intervals always include at least one of said times since the dispensing frequency will merely be a function of food size;

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the size, number and kind of animals; what is suggested by the food product manufacturer; and the duration of the time the animal will be left unattended.

Regarding Claims 2 and 7, Ramirez teaches the pet treats are pet comestibles (Col. 1 line 68).

Regarding Claims 5 and 10, Ramirez inherently teaches that the dispenser dispenses a plurality of said pet treats at any one time since it dispenses dry dog food (abstract).

Regarding Claims 18 and 20, Ramirez teaches the step of producing an audio signal prior to the dispensing of at least one of said pet treats (abstract).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 11, 13, 14, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,299,529 to Ramirez.

Regarding Claim 13 and 11, Ramirez teaches a device and method for dispensing pet treats at of selected times during a predetermined period, a container for holding a plurality of the pet treats; a time controlled dispenser for dispensing a plurality of the pet treats from said container said time controlled dispenser including a microprocessor and an input device/ said input device to signal said microprocessor to calculate a schedule for dispensing said pet treats, said microprocessor including a

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program to automatically calculate said schedule for dispensing the pet treats, said schedule constituting a first terminal interval, a second terminal interval, and at least one middle interval provided between said first and second terminal intervals (Col. 1 line 31-33; Col. 1 line 66-67; and Col. 6 line 46-47). Ramirez is silent on said schedule allowing the dispensing of at least one pet treat at the end of said first terminal interval and at least one pet treat at the beginning of said second terminal interval, wherein at least one of said terminal intervals is always less than the average time duration of all of said intervals or said times are calculated by subdividing said predetermined period into a number of equal consecutive intervals, said number of equal consecutive intervals equivalent to the number of planned dispensations, and selecting at least one of said times within each of a majority of said intervals. However, it would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since Ramirez teaches programming the dispensing and the modification is merely the selection of a known time variation that meets the feed and needs and the disciplinary needs of the animal since the time interval is a variable influenced by food size; the size, number and kind of animals; what is suggested by the food product manufacturer; and the duration of the time the animal will be left unattended. It would have been obvious to one of ordinary skill in the art to program the device to optimize the functions of the device while meeting the animal's needs.

Regarding Claim 14, Ramirez as modified teaches the pet treats are pet comestibles (Col. 1 line 68).

Regarding Claim 17, Ramirez as modified teaches that the dispenser dispenses a plurality of said pet treats at any one time since it dispenses dry dog food (abstract).

Regarding Claim 19, Ramirez as modified teaches the step of producing an audio signal prior to the dispensing of at least one of said pet treats (abstract).

Claims 3, 4, 8, 9, 15, and 16, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,299,529 to Ramirez in view of U.S. Patent No. 6,273,027 to Watson et al.

Regarding Claims 3, 8, and 15, Ramirez is silent on the pet treats are pet toys. However, Watson et al teaches an automated pet food dispenser that is programmed to dispense both food, treats, toys (Watson Col. 3 line 49-50). It would have been obvious to one of ordinary skill in the art to modify the teachings at the time of the invention since the modification is merely alternate dispensing objects selected merely to either feed or entertain the animal or both.

Regarding Claims 4, 9, and 16, Ramirez as modified teaches the pet toys each contain a pet comestible (Watson Col. 3 line 49-50).

### ***Conclusion***

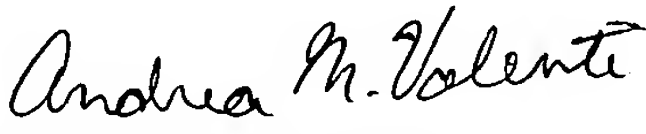
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 5,588,394; U.S. Patent No. 6,082,299; U.S. Patent No. 5,230,300; U.S. Patent No. 6,349,671; U.S. Patent No. 6,367,417; and United Kingdom Patent GB 2214329A.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 703-305-3010. The examiner can normally be reached on 7:30am-5pm M-F; Alternating Fridays Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 703-308-2574. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Andrea M. Valenti  
Examiner  
Art Unit 3643

10 February 2004

  
Peter M. Poon  
Supervisory Patent Examiner  
Technology Center 3600